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Attorneys for Defendants  
ALIANTELECOM INC. and ALIANT INC.

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

**EXIGEN, LTD.**, a Bermuda corporation,  
Plaintiff,

v.

**ALIANTELECOM, INC.**, a Canadian  
corporation; **ALIANT, INC.**, a Canadian  
corporation; **DOES 1-10**, inclusive,  
Defendants.

Case No. C 04-1203 TEH

**STIPULATION AND ~~[PROPOSED]~~  
ORDER DISMISSING ACTION WITH  
PREJUDICE**

Hearing Date: January 9, 2006  
Time: 10:00 a.m.  
Courtroom: 12 (19th floor)  
Judge: Hon. Thelton E. Henderson

IT IS HEREBY STIPULATED by and between the parties to the above-captioned action, through their attorneys of record herein, that this entire action by plaintiff Exigen, Ltd. be dismissed with prejudice pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure.

Each of the parties agrees to bear all of its own costs and attorneys fees.

The parties agree that this Court shall retain jurisdiction for the limited purpose of enforcing the settlement agreement between the parties underlying this stipulation of dismissal.

The parties state that material consideration for their entering into this stipulation, in accordance with the settlement agreement among the parties, is the parties' dismissal with prejudice of the entire action captioned Aliant Telecom Inc., Telecommunications Aliant Inc., Aliant Inc., xwave solutions inc. and Innovatia Inc. v. Exigen Ltd. and Exigen (Canada) Inc., Case no. S/C/363/2004, presently pending in the Trial Division in the Court of Queen's Bench of New Brunswick, Judicial District of Saint John.

**NOW, THEREFORE, THE PARTIES HEREBY RESPECTFULLY REQUEST  
THAT THE COURT ENTER AN ORDER DISMISSING THE ABOVE-CAPTIONED  
ACTION WITH PREJUDICE.**

Dated: January 4, 2006

O'MELVENY & MYERS LLP

By: \_\_\_\_\_ /s/  
Carla J. Christofferson  
Attorneys for Plaintiff  
**EXIGEN, LTD.**

Dated: January 4, 2006

STEPTOE & JOHNSON LLP

By: \_\_\_\_\_/s/  
Jay E. Smith  
Attorneys for Defendants  
ALIANTELECOM INC. and ALIANTELECOM INC.

1 I, Joshua D. Baker, am the ECF User whose ID and password are being used to file this  
2 Stipulation and [Proposed] Order Dismissing Action. In compliance with General Order 45,  
3 X.B., I hereby attest that Carla J. Christofferson and Jay E. Smith have concurred in this filing.

4 Dated: January 4, 2006

O'MELVENY & MYERS LLP

5  
6 By: /s/  
Joshua D. Baker  
7 Attorneys for Plaintiff  
EXIGEN, LTD.  
8

9 \* \* \*  
10 **IT IS SO ORDERED.**

11 Dated: 01/04/06

